IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 14.07.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice V.DHANAPALAN

Writ Appeal No. 2700 of 2002
& W.A.M.P.No.4569 of 2002

1.Chinnu Gounder
2.Mani ... Appellants/Petitioners

Vs.

1.The Government of Tamil Nadu,
rep. by the Secretary,
Backward Classes and Most Backward
Classes Welfare Department,
Fort St. George,
Chennai-9.

2.The Special Tahsildar,
(Adi Dravidar Welfare),
Kallakurichi,
Villupuram District. .. Respondents/Respondents

Writ appeal filed under Clause 15 of the Letters Patent against the order dated 12.07.2002 made in W.P.No.14353 of 1995 presented under Article 226 of the Constitution of India to issue a Writ of certiorari calling for the records relating to the impugned Declaration issued by the 1st Respondent u/s 6 of the Land Acquisition Act in G.O.(3-D) No. 44, Backward and Most Backward Classes Welfare Department, dated 1.8.95 and quash the same.

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For Appellants : Mr.K.Surendranath
For Respondents : Mr.C.Thirumaran,
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by P.SATHASIVAM, J.)

Aggrieved by the order of the learned single Judge dated 12.07.2002 passed in W.P.No.14353 of 1995, dismissing their writ petition, the petitioners have preferred the present writ appeal.

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2. Heard the learned counsel for the appellants as well as the learned Government Advocate for the respondents.

3. Before the learned single Judge, two contentions were raised, viz., (i) there was violation of Rule 3(b) of the Land Acquisition (Tamil Nadu) Rules; and (ii) there was delay in publishing the declaration under Section 6 of the Act.

4. With regard to the first contention, the learned Judge, after finding that the land acquisition is on behalf of the Revenue Department, which includes the Department of Harijan Welfare and Backward Classes, held that there is no question of observance of Rule 3(b) and rejected the said contention. It is not in dispute that the land was sought to be acquired for the purpose of providing house sites to Salavayalars of Vadakkanandal Village, which comes under the Backward Class and Most Backward Class Welfare Department. It is also brought to our notice that with effect from 11.06.1991, the expression, "Whether such Department is not the Revenue Department" has been omitted. The effect of the said explanation from the Rule makes it clear that the respondents have to issue notice to the requisitioning Department. Here, their views with reference to the objection of the land owners and the Land Acquisition Officer has to proceed thereafter. In the light of the amendment, which was in the year 1991, and the Notification under Section 4(1) having been issued in the year 1994, we are of the view that the finding of the learned Judge cannot be accepted and the objection of the land owners have to be forwarded to the Department concerned, viz., Backward Classes Department and after getting their remarks, it is incumbent on the part of the Land Acquisition Officer to conduct further enquiry and failure to do the same would vitiate the acquisition proceedings.

5. The learned Government Advocate has raised an objection that since the land owners have not submitted their objections within 30 days from the date of last publication, there is no need to forward their objections to the requisitioning Department. In this regard, the learned Government Advocate has placed relevant records to substantiate that local publication under Section 4(1) of the Tamil Nadu Land Acquisition Act was effected on 09.08.1994 and that the land owners filed their objections only on 04.10.1994 i.e. beyond 30 days.

6. The learned counsel appearing for the appellants, by taking us through the counter affidavit of the Deputy Secretary to the Government, Backward Classes and Most Backward Classes Welfare Department, Chennai, dated 13.06.1997 filed before the learned single Judge, has contended that the last mode of publication viz., local publication was effected in the office of the Special Tahsildar(Adi Dravidar Welfare), Kallakurichi Taluk, Villupuram District, on 22.09.1994; Taluk Office Kallakurichi on 26.09.1994; Police Station, Kachirapalayam on 26.09.1994; Sub-Registrar office, Vadakkanandal on 26.09.1994; the same was also served to the land owners on 26.09.1994; and that it was also published in the

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locality on 26.09.1994. All these details have been furnished in paragraph 11 of the counter affidavit. It is true that in paragraph 13, the very same Officer has stated that " the substance of the 4(1) notification was published in the locality on 09.08.1994..."

7. In view of the categorical information in paragraph 11 that all the prescribed modes were followed and the gist of 4(1) notification was affixed in various places viz., Office of the Special Tahsildar, Taluk Office, kallakurichi, Police Station, Kachirapalayam as well as Sub Registrar office, Vadakkanandal; and that notice was also served to the land owners on 26.09.1994, there is no reason to reject the argument of the learned counsel for the appellant that the last mode of publication was effected only on 26.09.1994. If that is so, the objection submitted by the land owners on 04.10.1994 is well within the time. In that event, the Land Acquisition Officer is duty bound to comply with Rule 3(b) of the Act. Accordingly, we reject the objection raised by the learned Government Advocate for the respondents.

8. Coming to the second contention, in view of the fact that even according to the appellants, the local publication was effected on 26.09.1994, the publication, which was published in the Gazette on 01.08.1995 was well within the time. Accordingly, we accept the conclusion of the learned single Judge on the second point.

9. In view of our conclusion on the first ground, all acquisition proceedings commencing from enquiry under Section 5-A of the Act are to be quashed with liberty to the respondents to proceed further, if they so desire, in accordance with law and accordingly, the same is quashed.

10. Accordingly, the writ appeal is allowed and the order of the learned single Judge dated 12.07.2002 made in W.P.No.14353 of 1995 is set aside. No costs. WAMP No.4569 of 2002 is closed.

Sd/-
Asst. Registrar.

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Sub Asst. Registrar.

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To

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